

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Crl.Rev.Pet.No. 791 of 2000(B)

**CRL.A.141/1993 OF ADDL.SESIONS COURT-II, KOZHIKODE,
CC.291/1991 OF JUDL. MAGISTRATE OF FIRST CLASS-I, KOZHIKODE.**
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REVISION PETITIONER/APPELLANT/ACCUSED NO.3:

**MONY @ SALIM,
S/O. ISMAIL, THAYYULLATHIL HOUSE,
KARATHUR, KOZHIKODE.**

BY ADV. SRI.R.SUDHISH.

RESPONDENT/RESPONDENT/COMPLAINANT:

**STATE OF KERALA, REPRESENTED BY THE
GOVT. PLEADER, HIGH COURT OF KERALA.**

BY PUBLIC PROSECUTOR SRI.C.K. SURESH.

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

ORDER ON CRL.M.P. NO. 205/2000 IN CRL.R.P. NO. 791/2000

DISMISSED

07/09/2007.

SD/- K.R.UDAYABHANU, JUDGE.

//TRUE COPY//

prv.

K.R.UDAYABHANU, J

Crl.R.P.No.791 of 2000

Dated this the 7th day of September, 2007

O R D E R

The revision petitioner is the third accused who stands convicted for the offences under Sections 457, 380 and 461 IPC and sentenced to undergo R.I. for three years for the offence under Section 457 IPC, R.I. for two years for the offence under Section 380 IPC and R.I. for one year for the offence under Section 461 IPC. The sentences shall run concurrently.

2. The prosecution case is that on 22.12.1990 in the night, the accused trespassed into the premises of the shop room bearing No.8/607 of Parambil Bazar in Kuruvattur amsom breaking open the lock of the shutter and removed a rado watch worth Rs.2,500/- and a cotton saree.

3. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 5, PW7 and PWs' 13 to 16, Exts. P1 to P4 and MO1. A1 and A4 stands convicted and A2 is absconding. PW3 is the shop keeper from whose shop the article was stolen allegedly on 22.12.1990. But he did not make any complaint to

the police. According to him, he did not file a complaint immediately as he was suffering from illness. According to him, the rado watch and the saree kept in the draw of the table was stolen. A1 and A2 were arrested on 11.3.1991 under suspicious circumstances. PW7, the Sub Inspector of Police on questioning them and as per the statement of A2, MO1 watch was recovered from PW5 to whom the accused had sold the same. PW5 has testified that it was A2 and A3 who came to the shop for the sale of the rado watch and the watch produced is the same and that Rs.1,500/- was paid to A3/revision petitioner. Nothing has been brought out in the cross examination of PW5 to show that he stated falsehood. PW5 has specifically identified MO1. The contention raised before this court is that PW5 has stated in the cross examination that he purchased the watch from A2 and A3 in February 1990. It is pointed out that the date alleged theft is 22.12.1990. But, I find that the above point has not been raised before the court below. In the circumstances, it appears that it was only a slip committed by PW5 when he was cross examined. I find that the evidence of PW5 as to the recovery of MO1 which has been identified by PW1 is sufficient to establish the guilt of

the accused. I find no reason to interfere in the findings of the court below. The conviction is confirmed.

4. Counsel for the revision petitioner has pleaded for leniency pointing out that more than 16 years have elapsed since the commencement of the proceedings and so far the accused was facing the ordeal.

5. In the circumstances and considering the long pendency of the matter, the sentence imposed for the offence under Section 380 IPC is modified to imprisonment till the rising of the court and to pay a fine of Rs.5,000/- and in default, to undergo simple imprisonment for six months. No separate sentence is awarded for the rest of the offences. Revision petitioner/A3 shall appear before the Judicial First Class Magistrate Court-I, Kozhikode on 30.10.2007 to receive the sentence.

The criminal revision petition is disposed of as above.

**K.R.UDAYABHANU,
JUDGE**

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